

### **Broster Buchanan Terms and Conditions**

**These are the Terms and Conditions upon which Broster Buchanan Limited, and their subsidiaries, supply their services as an employment agency and/or employment business for Clients.**

Where a Client requires the services of Broster Buchanan Limited or their subsidiary businesses (collectively referred to in these terms as “**Broster Buchanan**”) to assist in seeking suitable employment positions for Candidates, these terms and conditions shall apply unless otherwise agreed in writing by Broster Buchanan.

#### **Summarised Commercial Terms**

**Fee Breakdown:**

Please refer to Clause 35, or Schedule A where applicable.

**Invoice Date:**

Please refer to Clause 35. An invoice is payable from **the earlier of the day that the Candidate commences work or enters into an express or implied contract** with the Client or Group Company.

**Payment Terms:**

Seven days from invoice date. Please refer to Clause 27.

**Early Termination of Permanent Hires:**

Please refer to Clause 37.

**Minimum Fee:**

Please refer to Clause 33.

## Definitions

The following words and phrases shall, unless the context otherwise requires, have the following meanings:

<b>Alternative Hire Period</b>	means the period agreed within the Temporary Worker Schedule.
<b>Assignment</b>	means work performed by a Temporary Worker for the Client or a Group Company for a period of time during which the Temporary Worker is supplied by Broster Buchanan or a BB Group Company to work temporarily for and under the supervision and direction of the Client and/or Group Company.
<b>AWR</b>	means the Agency Worker Regulations 2010 (as amended).
<b>BB Employee</b>	means an employee or consultant of Broster Buchanan or a BB Group Company.
<b>BB Group Company</b>	means Broster Buchanan and any of its Subsidiaries from time to time.
<b>Calendar Week</b>	means any period of seven days starting on a Sunday and ending on the following Saturday which counts towards the Qualifying Period.
<b>Cancellation Fee</b>	means the cancellation Fee which shall be payable in accordance with clause 36(e).
<b>Candidate</b>	means the person Introduced by a BB Group Company to a Client including, but not limited to, any officer or employee of the Candidate if the Candidate is a limited company, any member or employee of the Candidate if the Candidate is a limited liability partnership and, where the context admits, an employee of a BB Group Company.
<b>Charge</b>	means the charge payable by the Client in accordance with these terms and conditions for an Assignment of each Temporary Worker and shall become due

on the day that the Temporary Worker accepts the Engagement, commences work or enters into an express or implied contract of employment or contract for services or other relevant contract. The Client agrees to notify Broster Buchanan forthwith upon the Assignment or Engagement by the Client of a Temporary Worker introduced by Broster Buchanan and if so requested by Broster Buchanan, will provide copies of all items of such Assignment or Engagement. If the Client fails to provide this information on request, then Broster Buchanan shall, at its discretion calculate the Charge based on the Gross Remuneration of other Temporary Workers in a similar role. In the event that more than one Temporary Worker is engaged by the Client, then the Client shall pay the Charge in respect of each Temporary Worker. In relation to an ongoing charge, the rate of charge is the “**Charge Rate**”.

- Client** means the hirer or engager of the Candidate or potential hirer or engager of the Candidate under an Engagement or following an Introduction as the case may be.
- Completion Fee** means the completion Fee which shall be payable in accordance with clause 36(c).
- Conduct Regulations** means the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (as amended).
- Curriculum Vitae** means a document detailing the qualifications, experience and other relevant information about a Candidate.
- Data Controller** means (a) “data controller” in the Data Protection Act 1998 in respect of undertaken on or before 24 May 2018 and (b) “controller” in accordance with the General Data Protection Regulation (EU) 2016/679 in respect of processing undertaken on or after 25 May 2018.
- Data Protection Legislation** means all applicable laws and regulations, as amended or updated from time to time, in the United Kingdom relating to data protection, the processing of personal data and privacy, including without limitation (a) the Data Protection Act 1998; (b) the General Data Protection Regulation (EU) 2016/679; (c) the Privacy and Electronics Communications (EC Directive) Regulations 2003 (as amended); (d) any legislation which replaces the UK law on the General Data Protection Regulation (EU) 2016/679 and any other law relating to data protection, the processing of personal data and privacy resulting from the UK leaving the European Union.
- End User** means the company or other person with whom the Client has an agreement and

who is the recipient of the services provided by a Temporary Worker or Limited Company Contractor as the case may be.

**Engagement**

means the engagement, employment or use of a person by the Client or any Group Company, whether on a permanent, fixed term, temporary, interim or other basis (and where with or without the knowledge of consent of a BB Group Company), where the person agrees to enter into or enters into a contract of service, contract for services or under an agency, licence, franchise or partnership agreement or otherwise directly with the Client or a Group Company or through any other engagement directly or through a limited company of which the Candidate is an officer or employee or through a limited liability partnership of which the Candidate is a member or employee or indirectly through another company and “Engaged” and “Engages” shall be construed accordingly.

**Fee**

means the fee payable by the Client in accordance with the Terms for the Engagement of each Candidate and shall be due on the date that the Candidate accepts the Engagement, commences work or enters into an express or implied contract of employment or contract for services or other relevant contract. If, after acceptance of an offer of Engagement but prior to the Candidate commencing work, the Client decides for any reason, which is outside the control of a BB Group Company, not to proceed with the Engagement, it shall be liable to pay Broster Buchanan the applicable Fee. The Client agrees to notify Broster Buchanan forthwith upon the Engagement by the Client of a Candidate and provide copies of all items of such Engagement. If the Client fails to provide this information, then Broster Buchanan shall, at its discretion, calculate the Fee based on the Gross Remuneration of other Candidates in a similar role. In the event that more than one Candidate is engaged by the Client, then the Client shall pay the Fee in respect of each Candidate.

**File Search**

means a search which is not a Retained Assignment

**File Search Fee**

means a Fee for a File Search.

**Fixed Term Contract Fee**

means the Fee for the Engagement for a fixed duration.

<b>Gross Remuneration</b>	means the Candidate's first year full time equivalent gross remuneration which shall in all cases include (without limitation) salary or Fees (including any guaranteed or non-guaranteed amounts), benefits, commissions, bonuses, overseas premia or allowances, relocation and/or living allowances, accommodation allowances, profit share, sign-on Fees and any other financial emoluments that have been provided to act as an incentive to the Candidate to join the Client or Group Company on any basis. The provision of a car is valued at £9,000 additional remuneration.
<b>Group Company</b>	means the Client's Holding Company or Companies and any of the Subsidiaries of the Company or of any such Holding Company or Companies of the Company from time to time.
<b>Holding Company</b>	is as defined in Section 1159 of the UK Companies Act 2006
<b>Initial Retainer Fee</b>	means the initial Retainer Fee which shall be payable immediately upon commencement of the Engagement in accordance with clause 37(a).
<b>Introduction</b>	means the passing of a curriculum vitae or other information about the Candidate or the interview of a Candidate in person or by telephone or otherwise and the time of the Introduction will be taken to be the earlier of such and "Introduced" and "Introduces" shall be construed accordingly and it does not matter for this purpose whether or not the Client knows the Candidate previously.
<b>Introduction Fee</b>	means any Fee payable following any Introduction hereunder.
<b>Key Information Document</b>	means a key information document to be provided to the Candidate, Temporary Worker, Limited Company Contractor and/or Representative as the case may be.
<b>Last Introduced Date</b>	means the later of the following dates: <ul style="list-style-type: none"><li>(a) twelve months from the last date on which the Candidate was last Introduced or reintroduced by a BB Group Company to a Client or a Group Company as the case may be;</li><li>(b) twelve months from the last date on which the Candidate was interviewed by a Client or a Group Company as the case may be;</li><li>(c) the last date that the Candidate worked for the Client or a Group Company.</li></ul>

<b>Limited Company Contractor</b>	means the person, firm or corporate body introduced to the Client by Broster Buchanan or a BB Group Company to carry out an Assignment (and save where otherwise indicated includes the Representative).
<b>Off-Payroll</b>	means Chapter 10 Part 2 of the Income Tax (Earnings and Pensions) Act 2003.
<b>Pay</b>	means any sums payable to a Temporary Worker in connection with the Temporary Worker's Assignment including basic gross salary, any fee, bonus attributable to individual performance, commission, paid holiday entitlement including statutory paid holiday and any additional contractual paid holiday entitlement, vouchers with a cash value, overtime, dangerous or difficult or other shift premium and any other emolument referable to the Assignment but excluding any payments within Regulation 6(3) of the AWR.
<b>Personal Data</b>	means, as set out in, and will be interpreted in accordance with, the Data Protection Legislation.
<b>Personal Data Breach</b>	means the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to Personal Data transmitted, stored or otherwise Processed in connection with these terms which relates to any Candidate.
<b>Process</b>	means as set out in, and will be interpreted in accordance with, the Data Protection Legislation and " <b>Processed</b> " and " <b>Processing</b> " will be construed accordingly.
<b>Qualifying Period</b>	means 12 continuous (as defined by Regulation 7 of the AWR) Calendar Weeks during which the whole or part of which the Temporary Worker is supplied to work for and under the direction and control of the Client and/or Group Company in the same role by Broster Buchanan or other temporary work agency (as defined by Regulation 4 of the AWR).
<b>Quarantine Period</b>	means the relevant period as set out within regulation 10(5) of the Conduct Regulations, or the period stated within the Temporary Worker Schedule where the Temporary Worker has Opted-Out of the Conduct Regulations.

<b>Registration Schedule</b>	means the registration schedule completed by the Temporary Worker.
<b>Relevant Period</b>	means the later of the period of (a) 8 weeks after the last day of the Assignment or (b) 14 weeks from the start of the first Assignment (with each new Assignment where there has been a break of more than 6 weeks since the end of the previous Assignment shall be considered the first Assignment for these purposes).
<b>Representative</b>	means any officer or employee of the Limited Company Contractor supplied to provide the Limited Company Contractor's services
<b>Retained Assignment</b>	means a specific Engagement in respect of which a BB Group Company has been retained.
<b>Retained Assignment Fee</b>	means a Fee for a Retained Assignment.
<b>Shortlist Fee</b>	means the shortlist Fee which shall be payable in accordance with clause 37(b).
<b>Subsidiary</b>	is as defined in Section 1159 of the Companies Act 2006.
<b>Temporary Worker</b>	means the worker supplied by Broster Buchanan of a BB Group Company to provide services to the Client and/or any Group Company under the direct control, supervision or direction of the Client and/or Group Company as applicable.
<b>Temporary Worker Schedule</b>	means the schedule provided by Broster Buchanan to the Client confirming details relating to the Assignment and may, at the discretion of Broster Buchanan, be constituted by the Key Information Document.
<b>Terms</b>	means Terms and Conditions as attached.
<b>Transfer Fee</b>	means the Fee set out in the Temporary Worker's Schedule.
<b>Valid Opt Out</b>	means written notification from a Limited Company Contractor and the individual Temporary Worker in accordance with Regulation 32(9) of the Conduct Regulations.
<b>Variation Agreement</b>	means any amendments to any applicable Terms which must be in writing and signed by an authorized representative of a BB Group Company.

## Terms applicable to all Engagements

1. Broster Buchanan enters these Terms on its behalf and on behalf of each BB Group Company – all of whom as able to enforce such as if they were a direct party to the Terms and/or any contract. These Terms constitute the entire agreement between Broster Buchanan and the Client in relation to the subject matter hereof.
2. The Terms are deemed to be accepted by the Client and to apply on the earlier of (a) an Introduction; (b) an agreed Assignment and/or Engagement by the Client of a Candidate; (c) the passing of information about a Candidate to any third party, (d) the Client's interview or request to interview a Candidate or any other expressed acceptance of the Terms. Where Broster Buchanan is retained by the Client or a Group Company for a Retained Assignment, Broster Buchanan's terms and conditions shall apply upon the acceptance by Broster Buchanan of the Retained Engagement.
3. The Client agrees to immediately in writing notify Broster Buchanan of any Candidates that it wishes to be specifically excluded from the recruitment process but otherwise such shall be deemed included.
4. The Terms apply whether or not the Candidate is Engaged by the Client for the same type of work as put forward by a BB Group Company.
5. All and any business undertaken by Broster Buchanan and or any BB Group Company is transacted subject to these Terms unless otherwise agreed by Broster Buchanan in writing via a Variation Agreement. Where Broster Buchanan and the Client have entered into a Variation Agreement and the Client or a Group Company breaches any of the terms and conditions of the Variation Agreement then Broster Buchanan may unilaterally revert to these Terms.
6. In the event of any conflict between these Terms and any other terms and conditions, the former shall prevail unless otherwise expressly agreed by Broster Buchanan in writing.
7. If any of these Terms or any part thereof is held to be invalid, void or unenforceable for any reason, the remaining provisions of these Terms shall remain in full force and effect to the extent permitted by law.
8. Broster Buchanan shall use reasonable endeavours to provide a high standard of service and integrity but makes no warranty on the quality or capability of any candidates.
9. When assessing the suitability of a Candidate, Broster Buchanan shall place sole reliance on the role details provided by the Client and/or any Group Company and the Client accepts that Broster Buchanan shall make no further assessment of the Client's requirements or any requirements of a Group Company. In particular, without prejudice to the generality of the foregoing, Broster Buchanan shall be entitled to place full reliance on the Engagement Details or Assignment Details provided by the Client.
10. By Engaging, the Client authorizes Broster Buchanan and all BB Group Companies to act on its behalf in seeking Temporary Workers and/or Candidates and, if a Client so requests, Broster Buchanan shall advertise for Temporary Workers and/or Candidates through such methods as are agreed with the Client. The Client agrees to pay all pre-agreed advertising costs, artwork costs and creative concept costs incurred by Broster Buchanan. An advertisement may only be cancelled by the Client on giving sufficient notice to



enable Broster Buchanan to cancel the advertisement with the relevant third party without loss of reputation. Cancellation costs will be paid by the Client.

11. Broster Buchanan accepts no responsibility in respect of matters outside their knowledge and the Client must, in all circumstances, satisfy itself as to the suitability of a Candidate or Temporary Worker.
12. The introduction of a Candidate or Temporary Worker or the provision of any details about such is done on a strictly private and confidential basis and is conditional upon the Client and any Group Company agreeing not to disclose any information about the Candidate or Temporary Worker (as the case may be) to any other person, firm or company within Broster Buchanan's prior written consent. In particular, all information provided is subject to Broster Buchanan's Data Privacy Policy and must be protected by the Client in accordance with that policy at all times. In particular, the Client and any Group Company shall not approach a Candidate's referees or current employer or similar unless the Candidate has formally accepted the Client's written offer of Engagement.
13. Both parties hereby agree to comply with all data protection legislation relating to personal data and the processing of personal data and each party agrees to indemnify the other in full against all liability, costs, claims, damages, fines and legal fees relating to any breach caused directly or indirectly by the first party, and, in particular, both parties agree that they will not and they will procure that no companies within their group of companies will send the personal data outside of the European Economic Area to a jurisdiction which does not necessarily provide the same statutory protection for the information as countries within the European Economic Area. In addition, the Client agrees to immediately destroy/delete all information relating to a Temporary Worker or Candidate if requested to do so by Broster Buchanan.
14. These terms and conditions shall be governed and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the English courts. Where a provision would otherwise be considered void due to the operation of the Conduct Regulations (as amended) or otherwise, it shall be deemed to apply to the extent permitted by such. For all matters relating to a Client based in the USA or involving any dispute or controversy relating to the USA, the Client hereby waives any right to trial by jury and hereby waive all defences of lack of personal jurisdiction and forum *non conveniens* in all disputes arising out of or related to these terms, including the scope, the construction or application of these terms, and hereby agrees that such disputes or controversy shall, if required by BB, be resolved by binding arbitration governed by the relevant arbitration the Federal Arbitration Act and in accordance with the commercial arbitration rules of the Judicial Arbitration and Mediation Services ("JAMS") then in force. Unless determined to litigate in Court and at the discretion of BB, neither party shall have the right to have a jury trial. Discovery and appeal rights may also be limited in arbitration. The arbitration hearings and all meetings pursuant to this section shall be held in such arbitration jurisdiction as nominated by BB (including in England and Wales). If the parties cannot agree upon a single arbitrator within twenty (20) calendar days after demand by either of them, each party shall select one arbitrator in that jurisdiction, and notify the other of its selection, and such two arbitrators shall select a third from a list of arbitrators qualified by JAMS. If this procedure for selecting arbitrators fails, then a neutral arbitrator with knowledge relevant to the dispute shall be selected by JAMS to resolve the dispute. The arbitrator(s) shall conduct a hearing within sixty (60) days after their selection. A majority of the arbitrators (if there is more than one pursuant to this clause) shall determine the decision/award, which shall be rendered within ten (10) days after the completion of the hearing. The decision of the arbitrator(s) shall be final and binding upon the parties both as to law and to fact and shall not be appealable to any court in any jurisdiction. The parties shall share the expenses of the arbitrators equally. Nothing in any indemnification provision hereunder shall be construed as having any bearing on the award of lawyers' fees or arbitrators' fees under this section. In an arbitration,

the Client hereby agrees that any proceeding shall be limited to the dispute between BB and the Client. To the full extent permitted by law, (i) no arbitration or proceeding shall be joined with any other; (ii) there is no right or authority for any dispute to be arbitrated or resolved on a class action-basis or to utilize class action procedures; and (iii) there is no right or authority for any dispute to be brought in a purported representative capacity on behalf of the general public or any other persons. The Client hereby agrees that any controversy or claim shall be arbitrated on an individual basis and shall not be consolidated in any arbitration with any claim or controversy of any other party, unless agreed to by BB at its sole discretion.

### **Client Obligations**

15. The Client agrees to notify Broster Buchanan upon the Engagement or any other engagement by the Client of the Candidate and shall provide copies of all terms of such engagement.
16. In all cases, the Client shall provide sufficient information to enable Broster Buchanan to be able to complete a Key Information Document for the Engagement.
17. The Client shall comply and procure that its employees and officers and any third parties under the control or direction of the Client including any Group Companies comply with all applicable laws, rules and regulations relating to anti-bribery and corruption including but not limited to the UK Bribery Act 2010 and commits that neither it nor any of them will offer, promise, give or agree to give any person or accept or agree to accept from any person, whether for itself or on behalf of another, any gift, payment, consideration, facilitation payment, financial or non-financial advantage or benefit of any kind which is illegal or corrupt under the law of any country directly or indirectly in connection with this Agreement or any other agreement existing now or in the future with the Client and promptly report to Broster Buchanan any request, demand, offer for any bribe or other payment detailed above by the Client or Group Company

in connection with the performance of this contract or any other agreement existing now or in the future with any Group Company.

18. The Client shall ensure that any third party engaged in connection with this contract does so only on the basis of a written agreement which imposes on such person terms equivalent to those imposed on the Client. The Client shall be responsible for the observance and performance by such person of the terms and conditions and shall be directly liable for any breach by such person of any of the terms and conditions.
19. The Client shall be solely responsible for arranging all medical examinations and investigations of the Candidate or Temporary Worker (including the confirmation of any professional or academic qualifications) and for obtaining any work and other permits and shall satisfy itself as to the suitability of any Candidate or Temporary Worker prior to any Engagement or Assignment.
20. The Client shall immediately inform Broster Buchanan should there be any reason or circumstance under which it would be detrimental to in the interests of Broster Buchanan, the Client or the Temporary Worker or Candidate for the Temporary Worker or Candidate to take up a position with the Client or a Group Company.
21. The Client shall immediately disclose in writing to Broster Buchanan details of any breach of clause 19 or 20 and shall provide such information and explanation as is reasonably necessary to verify compliance with this term.
22. The Client hereby undertakes to indemnify Broster Buchanan in respect of any and all liability of Broster Buchanan which results from any breach by the Client or any Group Company or any of its obligations under these terms and conditions.
23. Any circumstances allegedly giving rise to any cause of complaint about a Candidate or an invoice must be notified by the Client to Broster Buchanan and confirmed in writing as soon as the cause of the alleged complaint arises.

#### **Fees and expenses generally**

24. Where Introduced hereunder, Fees will be charged whether or not the Client or a Group Company knew a Candidate previously.
25. Where applicable, Value Added Tax or the equivalent shall be charged in addition at the appropriate statutory rate from time to time.
26. Where Broster Buchanan is required to or does reimburse a Temporary Worker and/or Candidate travelling and out of pocket expenses in connection with attending an interview with the Client or a Group Company, it shall invoice the Client and the Client must pay the invoice within 7 days of receipt of the invoice.
27. Unless otherwise stipulated in Schedule A, all monies due hereunder shall be paid by the Client within seven days of the invoice date. In the event of late payments Broster Buchanan reserves the right to charge interest on all overdue invoices at a rate of 2% per month cumulated monthly and to re-issue the relevant invoice(s) on our standard terms regardless of any discounted rates or other favourable terms otherwise agreed.

28. Introduction Fees will also be payable if, within 12 months of the Last Introduction Date:
- (a) the Client employs or otherwise engages the Temporary Worker or Candidate in any capacity either directly or via an employment business or employment agency or third-party company
  - (b) the Client uses the services of the Candidate in any capacity otherwise than through Broster Buchanan whether facilitated directly by the Client or Temporary Worker or Candidate including but not limited to outsourcing or restructuring arrangements.
  - (c) the Client employs or engages any Temporary Worker or Candidate as a direct or indirect result of any Candidate responding to an internal or external advertisement published by the Client or a Group Company or any of their representative or agents.
29. If the Client introduces or reintroduces a Candidate to another person, firm, body, common directorship or company associated with it resulting in the engagement of that Candidate by that person, firm body or company within 12 months of the Last Introduction Date, the Client shall pay the introduction Fee and no refund will be applicable for such an Engagement in any circumstances.
30. Fees will also be payable if within 12 months of acceptance of Broster Buchanan's terms and conditions in accordance with clause 3 or the Last Introduction Date, whichever is later, the Client or any Group Company or any third party to which it engages in any capacity whether under a contract of service of a contract for services, any person who at the time of such engagement or who within 15 weeks immediately prior thereto was a BB Employee or any other party engages in any capacity whether under a contract of service of a contract for Services any BB Employee where such engagement has resulted directly or indirectly from the Client passing information about the BB Employee to another party. For the avoidance of doubt, a BB Employee who has had direct or indirect contact with the Client or a Group Company during any recruitment assignment shall be deemed to be a Candidate for the purposes of these terms and conditions and a Fee shall be payable of 35% of Gross Remuneration shall be payable by the Client to Broster Buchanan within 14 days of the hire.
31. The Client agrees that arrangements in relation to each Candidate represent individual contracts and that the Client has no right to set off or counter claim between individual agreements or arrangements.
32. Where the Client has failed to provide information relating to Gross remuneration as required under clause 16, Broster Buchanan may, at its discretion, calculate the Fees payable based on the Gross Remuneration of other workers in a similar position.
33. Unless otherwise stipulated in Schedule A, following acceptance of an offer by a Candidate, the Minimum Fee for each Engagement (regardless of whether the Candidate commences work or not and regardless of why they have not commenced such work) will be £5,000 plus VAT (or the relevant equivalent currency exchange rate, calculated on the day of acceptance) . Each Fee or Charge may be increased by such amount as is required by Broster Buchanan to meet is legal obligations under auto-enrolment.

**Terms applicable to permanent Engagements or fixed-term Engagements**

34. When specifying the requirements for a particular role, the Client shall provide Broster Buchanan with such full and accurate details of
- (a) the intended and expected duties of the Candidate;
  - (b) for a Fixed-Term Engagement, the intended duration of the Engagement;
  - (c) any special skills, authorisations, qualifications and training which the Candidate is expected to have or required to have.
  - (d) if the Candidate is required by law or by any professional body or regulatory body to have any particular qualification or experience for the role;
  - (e) the date on which the Client or a Group Company requires the Candidate to commence work;
  - (f) the location from which the work will be performed and the hours of work;
  - (g) the minimum rate of remuneration and any other benefits which would be offered to the successful Candidate;
  - (h) the intervals at which the successful Candidate would be paid;
  - (i) the length of notice that either party is expected to give for termination of the contract;
  - (j) any special hazards or dangers that the Candidate may face;
  - (k) any health and safety information or other information which the Client wishes Broster Buchanan to pass on to the Candidate or should, as part of its fiduciary obligations to employees generally, provide to the candidate,
- together, the “**Engagement Details**”.
35. On a File Search, the File Search Fee shall become payable by the Client and/or Group Company (if agreed by Broster Buchanan), on the earlier of the day that the Candidate commences work or enters into an express or implied contract with the Client or Group Company. **Unless otherwise stipulated in Schedule A**, the File Search Fee would be 27.5% for Gross Remuneration up to £29,999; 33% for Gross Remuneration between £30,000 and £74,999 and 36% for Gross Remuneration over £75,000 (or the relevant equivalent currency exchange rate, calculated on the day of acceptance.)
36. On a Retained Search, the Retained Assignment Fee shall be payable as follows:
- (a) the Initial Retainer Fee shall be payable immediately upon commencement of the Engagement and is non-refundable. This is calculated as 30% of the **overall** fee payable for the relevant Gross Remuneration.
  - (b) the Shortlist Fee shall be payable upon presentation to the Client and/or Group Company of a minimum three possible Candidates who in the reasonable opinion of Broster Buchanan meet the agreed specification and is non-refundable. This is calculated as 30% of the **overall** fee payable for the relevant Gross Remuneration.
  - (c) a Completion Fee shall be payable on the date that the Candidate enters into a binding contract of employment or other contract and is nonrefundable. This is calculated as 40% of the **overall** fee payable for the relevant Gross Remuneration.

- (d) Unless otherwise stipulated in Schedule A, the Total Fee would be 27.5% for Gross Remuneration up to £29,999; 33% for Gross Remuneration between £30,000 and £74,999 and 36% for Gross Remuneration over £75,000 (or the relevant equivalent currency exchange rate, calculated on the day of acceptance).
  - (e) if a Retained Assignment is cancelled or deemed by Broster Buchanan to be inactive or not proceeding for a period of 8 weeks, then in addition to the retainer Fee and the Shortlist fee (if any), the Client shall pay a Cancellation Fee of 10% of the stated Gross Remuneration plus all reasonable advertising and travel expenses incurred by Broster Buchanan.
37. Unless otherwise stipulated in Schedule A, in the event that an Engagement terminates within 8 weeks of the date of commencement of work by the Candidate (whether by expiry of notice or otherwise) and provided that:
- (a) the Client has paid the fee within 7 days of the date of the invoice
  - (b) the Minimum Fee is paid
  - (c) the Client notifies Broster Buchanan in writing of the termination of Engagement within 7 days of such termination;
  - (d) the Client or any person, firm, body or company associated with it shall not engage the Candidate within twelve months from the date of such termination;
  - (e) the termination is not due to redundancy, constructive or unlawful dismissal, corporate restructure, change of management or job description or role details, pregnancy, illness or injury;
  - (f) all monies due from the Client have been paid in accordance with these terms and conditions; and
  - (g) the Client agrees to engage and procure that all Group Companies engage with Broster Buchanan exclusively and does not use other agencies and does not unduly delay the interview process in the reasonable opinion of Broster Buchanan, then

Broster Buchanan shall endeavour to find an alternative Candidate (as detailed in the role details as per Clause 6 or for the specific role in accordance with the Engagement of the first Candidate, as deemed by Broster Buchanan) at no extra cost to the Client except for advertising costs and travel expenses.

Alternatively, a refund will be available to a Client in accordance with this clause as to 50% of the Introduction Fee minus the Minimum Fee if the Candidate leaves within the first 4 weeks of commencement of the Engagement and 25% of the Introduction Fee minus the Minimum Fee if the Candidate leaves within the next 4 weeks (i.e. the fifth to the eighth week of commencement of the Engagement). No refund will be given or applicable for such an Engagement under clause 28 in any circumstances. Should the Client or any subsidiary or associated company of the Client subsequently re-engage the Candidate within the period of 6 calendar months from the date of termination of the Engagement or withdrawal of the offer, a full Fee becomes payable, with no entitlement to a refund.

38. Subject to clause 36, the Fixed Term Contract Fee will be equivalent to such percentage determined by the formula  $x/12 \times 100$  multiplied by the Gross Remuneration multiplied by the Fee determined in clause 36 above where x denotes the duration of the Engagement in months provided that the duration is less than 12 months. If the Engagement is for a period of more than 12 months, then the Fixed Term Contract shall be the Gross Remuneration for the relevant year containing 12 full months.

39. If, during a fixed term Engagement, the Client wishes to Engage the Candidate on a permanent basis, the Client shall pay Broster Buchanan an amount equal to an Introduction Fee as currently charged by Broster Buchanan for permanent recruitment less the portion of the Fixed Term Contract Fee which relates to the period of any of the Engagement not completed by the Candidate. Time lost through absence or holiday or notice shall be considered as time worked for this purpose. The Fixed Term Contract Fee shall not be refundable in any way in any other circumstances.
40. If, following the completion of an Engagement, the Candidate is Engaged by the Client or Group Company then if this is within 12 months of such completion, the Client shall pay Broster Buchanan a fee based on the method of Engagement subject to the relevant terms and conditions of Broster Buchanan at the time.

### **Terms applicable to Temporary Assignments**

41. When specifying the requirements for a particular role, the Client shall provide Broster Buchanan with such full and accurate details of
  - (a) the intended and expected duties of the Temporary Worker;
  - (b) the intended duration of the Assignment;
  - (c) any special skills, authorisations, qualifications and training which the Temporary Worker is expected to have or required to have.
  - (d) if the Temporary Worker is required by law or by any professional body or regulatory body to have any particular qualification or experience for the role;
  - (e) the date on which the Client or a Group Company requires the Temporary Worker to commence work;
  - (f) the location from which the work will be performed and the hours of work;
  - (g) any special hazards or dangers that the Temporary Worker may face;
  - (h) any health and safety information or other information which the Client wishes Broster Buchanan to pass on to the Candidate or should, as part of its fiduciary obligations to employees generally, provide to the candidate, together, the “**Assignment Details**”.
42. If, during an Assignment, the Client proposes to make a change to any of the Assignment Details, it shall inform Broster Buchanan immediately and in any event before making such a change and obtain its written consent.
43. The Client shall not and shall procure that no Group Company shall allow the Temporary Worker to undertake any work not specified in the Assignment Details nor any night work unless the Temporary Worker has been given a full health assessment which has shown that there is no reason why the Temporary Worker should not do such night work.
44. The Client agrees that any work performed outside of the Client’s normal working day to which an overtime rate applies shall only ever be undertaken by the Temporary Worker on a voluntary basis.
45. The Assignment shall be office-based work unless Broster Buchanan specifically agrees in writing but in all cases the Client acknowledges that it shall be its responsibility to ensure adequate training and health and

safety measures in relation to the Temporary Worker.

46. At the time of the Assignment, Broster Buchanan shall confirm the total Charge and/or Charge Rate (as applicable) and the Client agrees to pay this. In the event that the Temporary Worker does not complete any period of the Assignment, no refund is payable.
47. The hours/days actually worked will be stated on a weekly time sheet completed by the Temporary Worker and duly authorised by the Client (which authorisation shall in all cases constitute further acceptance of the Fee) as directed by Broster Buchanan. If the Client fails to authorise a time sheet within 3 working days of completion of the work by the Temporary Worker, the Client shall be deemed to have authorised it unless the Client notifies Broster Buchanan in writing otherwise.
48. Broster Buchanan reserves the right to vary the Charge/Charge Rate on any extension or subsequent Assignment. Broster Buchanan has the right to vary the Charge/Charge Rate on an existing Assignment on 7 days' written notice.
49. All Charges and other fees are invoiced weekly and shall be payable within 7 days of the date of the invoice. Where applicable, Value Added Tax shall be charged in addition at the appropriate statutory rate from time to time. In the event of late payments Broster Buchanan reserves the right to charge interest on all overdue invoices at a rate of 2% per month. In the event of non-payment, Broster Buchanan may, without prejudice to its rights, elect to terminate the Assignment and withdraw the Temporary Worker without notice.
50. If the Client Engages a Temporary Worker supplied by Broster Buchanan for an Assignment directly or through another employment business during the Assignment within the Relevant Period on a permanent basis then the Client shall be liable, at the option of Broster Buchanan, either to (a) an extended period of hire of the Temporary Worker of 52 weeks during which the Client shall pay the Fee agreed under clause 46 or (b) an Introduction Fee calculated as if this was a File Search Fee and clause 36 applied.
51. If the Client Engages a Temporary Worker supplied by Broster Buchanan for an Assignment directly or through another employment business during the Assignment within the Relevant Period on a fixed term contract then the Client shall be liable, at the option of Broster Buchanan, either to an extended period of hire of the Temporary Worker in accordance with clause 50(a) or an introduction Charge equal to the introduction Fee calculated in clause 36 multiplied by  $x/12$  of the GR where  $x$  denotes the duration of the Engagement in months. .
52. An Introduction of a Temporary Worker to the Client which does not result in the supply of that Temporary Worker by Broster Buchanan to the Client but which leads to another Engagement of the Temporary Worker by the Client either directly or through another employment business within 12 months from the date of the last Introduction will entitle Broster Buchanan either to an extended period of hire in accordance with clause 50(a) of an Introduction Charge as per clause 50(b) at the option of Broster Buchanan.
53. If following the completion of an Engagement, the Temporary Worker is engaged by the Client or Group Company within 12 months of the Last Introduction Date, the Client shall pay Broster Buchanan a Charge based on Broster Buchanan's relevant terms and conditions relating to that Engagement at the time. For the purpose of this clause "engaged" means Engaged, employed, re-employed, taken on as a consultant, introduced to a third party or otherwise whether directly or indirectly and whether personally or through a company.
54. In the event that any Temporary Worker is rejected by the Client, or any Temporary Worker rejects an offer of Engagement by the Client, the Client shall pay a Charge based on the method of Engagement subject to



the relevant terms and conditions of Broster Buchanan at the time to Broster Buchanan if the Temporary Worker if subsequently engaged by the Client or a Group Company within 12 months of the Last Introduction Date. No refund will be applicable for such an Engagement under any circumstances.

55. Where a Temporary Worker is supplied through a Limited Company Contractor and has elected to opt out of the Conduct Regulations and Broster Buchanan has notified the Client of such Opt Out, the Charge/Charge Rate shall apply for the length of any period of supply and for fifty-two weeks from the end of the last period of supply of that Temporary Worker.
56. Charges based on the method of Engagement subject to the relevant terms and conditions of Broster Buchanan at the time will also be payable if, within 12 months of the Last Introduction Date (a) the Client employs or otherwise engages the Temporary Worker in any capacity either directly or via an employment business or employment agency or third party company or (b) the Client uses the services of the Temporary Worker in any capacity otherwise than through Broster Buchanan whether facilitated directly by the Client or Temporary Worker including but not limited to outsourcing or restructuring arrangements; or (c) the Client employs or engages any Temporary Worker as a direct or indirect result of any Temporary Worker responding to an internal or external advertisement published by the Client or a Group Company or any of their representative or agents.
57. Where Broster Buchanan reimburses a Temporary Worker travelling and out of pocket expenses in connection with attending an interview with the Client or a Group Company, it shall invoice the Client and the Client must pay the invoice within 7 days of receipt of the invoice.
58. The introduction of a Temporary Worker or the provision of any details about a Candidate is done on a strictly private and confidential basis and is conditional upon the Client and any Group Company agreeing not to disclose any information about the Candidate to any other person, form or company within Broster Buchanan's prior written consent. In particular, all information provided is subject to Broster Buchanan's Data Privacy Policy and must be protected by the Client in accordance with that policy at all times. In particular, the Client and any Group Company shall not approach the Candidate's referees or current employer or similar unless the Candidate has formally accepted the Client's written offer of Engagement.
59. Charges will also be payable if within 12 months of acceptance of Broster Buchanan's Terms or the Last Introduction Date, whoever is later, the Client or any Group Company or any third party to which it engages in any capacity whether under a contract of service of a contract for services, any person who at the time of such engagement or who within 15 weeks immediately prior thereto was a BB Employee or any other party engages in any capacity whether under a contract of service of a contract for Services any BB Employee where such engagement has resulted directly or indirectly from the Client passing information about the BB Employee to another party. For the avoidance of doubt, a BB Employee who has had direct or indirect contact with the Client or a Group Company during any recruitment assignment shall be deemed to be a Temporary Worker for the purposes of these Terms and a Charge shall be payable of 35% of Gross Remuneration shall be payable by the Client to Broster Buchanan within 14 days of the hire.
60. Where the Temporary Worker is an agency worker as defined in Regulation 3 of the AWR, the Client shall provide the Temporary Worker with equal access (a) to all its collective facilities and amenities; and (b) to information about relevant vacant posts within the Client's place of work, as if the Temporary Worker had

been directly employed by the Client at the start of the Assignment.

61. To enable Broster Buchanan to comply with its obligations under AWR and to determine the Pay and Working Conditions applicable to the Assignment the Client will provide Broster Buchanan before the start of the Assignment the following information (a) details of any work since 1 October 2011 that the Temporary Worker has performed for the Client in the same or a similar role via any third party which may count towards the Qualifying Period; and (b) details of the Pay and Working Conditions that the Temporary Worker would be entitled to if the Temporary Worker had been recruited for the same role directly by the Client at the start of the Qualifying Period.
62. The Client will provide to Broster Buchanan written notification of any variations of Pay or Working Conditions applicable to the job the Temporary Worker is doing in the Assignment as if the Temporary Worker has been directly employed by the Client in that job at the start of the Qualifying Period.
63. The Client agrees with Broster Buchanan that Broster Buchanan will only be responsible for obligations under the AWR to the extent that Broster Buchanan has not following the correct procedure. Broster Buchanan shall not be liable for any breach of the AWR which arise as a result of receiving incorrect information from a Temporary Worker, the Client or any third party.
64. For the avoidance of doubt, where the Temporary Worker is supplied through a Limited Company Contactor and the contract that the Temporary Worker has with Broster Buchanan has the effect that the status of Broster Buchanan or the Client is that of a client or customer of a profession or business undertaking carried on by the Temporary Worker the temporary Worker is not an agency worker as defined by Regulation 3 of the AWR.
65. The Temporary Worker shall provide Broster Buchanan with up to date copies of all permits (including work permits) qualifications and regulatory authorisations that are likely to be required to be provided to a Client and/or Group Company immediately on request.
66. A Temporary Worker provided by Broster Buchanan is deemed to be the responsibility of the Client from the time at which the Temporary Worker reports to begin the Assignment and for the duration of the Assignment and the Client agrees to be responsible to all third parties for all acts, omissions and errors whether they are wilful, negligent or otherwise as though the Temporary Worker were an employee of the Client and the Client will in all respects comply with all regulations and legal requirements to which the Client is ordinarily subject in respect of all the Client's staff save for tax and social security obligations. The Client agrees to take out full insurance to cover the cost of all third-party actions, claims, costs or damages. The Client further agrees to insure the Temporary Worker for all risks in respect of claims made by third parties.
67. Broster Buchanan shall use reasonable endeavours to provide a high standard of service and integrity but makes no warranty on the quality or capability of any Temporary Workers. The Client shall immediately inform Broster Buchanan should there be any reason or circumstance under which it would be detrimental to in the interests of Broster Buchanan, the Client or the Temporary Worker for the Temporary Worker to take up a position with the Client or a Group Company.

## Liability

68. Broster Buchanan shall not be liable to the Client or any Group Company for any loss of profit, loss of business, loss of use or any indirect, special, punitive or consequential damages.
69. Broster Buchanan shall not be liable for any loss, injury, liability, damage, expense or delay incurred or suffered by the Client or any Group Company arising directly or indirectly from or in any way connected with an Engagement and in particular but without limitation to the foregoing any such loss, injury, liability, damage, expense or delay arising from or in any way connected with
- (a) failure by the Candidate or Temporary Worker to meet the requirements of the Client or Group Company for all or any of the purposes for which he or she is required by the Client or Group Company as relevant.
  - (b) any act or omission of a Candidate or Temporary Worker whether willful, negligent, fraudulent, dishonest, reckless or otherwise;
  - (c) any loss, injury, damage, expense or delay incurred or suffered by a Candidate or Temporary Worker after acceptance of an offer of Engagement from the Client.

Provided that nothing in this clause 70 shall be construed as purporting to exclude or restrict liability of Broster Buchanan to the Client for personal injury or death resulting from negligence nor any statutory liability, any exclusion or limitation which is prohibited by law.

70. Broster Buchanan shall not be liable in any way for any failure or delay in performing any of its obligations to the extent that such failure or delay is caused by events which are beyond its control.